

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 16127
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

On November 5, 2001, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing income tax, penalty, and interest for the taxable years 1995 and 1997 in the total amount of \$13,444.

On November 8, 2001, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not respond to the Tax Commission's hearing rights letter and has provided no additional information for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) received information that the taxpayer received wages that were reported to the Idaho Department of Labor. The Bureau researched the Tax Commission's records and found that the taxpayer did not file Idaho income tax returns for the taxable years 1995 through 1997. The Bureau sent the taxpayer a letter asking about his requirement to file Idaho income tax returns, but the taxpayer did not respond.

The Bureau obtained additional information from the [Redacted] and determined the taxpayer did have a filing requirement for the years 1995 and 1997. Therefore, the Bureau prepared returns for the taxpayer and sent him a Notice of Deficiency Determination. The taxpayer protested the Bureau's determination stating that his records were burned in a fire, that

he made less than \$12,000 in 1995, and that his 1997 income was far less than what was shown because he was a student at the University of Idaho.

The taxpayer provided the Bureau with additional information that the Bureau researched and incorporated in a revised determination. The Bureau sent the taxpayer modified income tax returns, but the taxpayer failed to acknowledge acceptance or rejection. Therefore, the Bureau referred the matter for administrative review.

The Tax Commission sent the taxpayer a letter giving him two options for having the Notice of Deficiency Determination redetermined. The taxpayer did not respond. Therefore, the Tax Commission decided the matter based upon the information available.

The taxpayer did not dispute that he had a requirement to file Idaho income tax returns. He contested the Bureau's determination of his taxable income for both 1995 and 1997. The taxpayer did provide the Bureau with additional information, which the Bureau substantiated and used to make modifications to the 1995 return. However, the taxpayer's claim that he sustained a business loss in 1996, which could be carried over to 1997, was unsubstantiated and could not be verified by the Bureau. Consequently, the Bureau did not allow a net operating loss carryback or carryforward.

The Tax Commission reviewed the changes the Bureau made to the 1995 return and found that they were appropriate for the information available. Since the taxpayer failed to provide anything other than what are called "self-serving statements" for tax year 1997, he did not meet his burden of proof to show that the 1997 return prepared by the Bureau was incorrect. Albertson's, Inc. v. State, Dept. of Revenue, State Tax Com'n, 106 Idaho 810, 683 P.2d 846 (1984). Therefore, the Tax Commission finds that there was no basis for making any changes to the 1997 return and hereby upholds the Bureau's determination for tax year 1997.

The Bureau added interest and penalty to the taxpayer's tax for both 1995 and 1997. The Tax Commission reviewed those additions and found them to be in accordance with Idaho Code sections 63-3045 and 63-3046, respectively. The Tax Commission agrees with the additions and finds that they are appropriate in this case.

WHEREFORE, the Notice of Deficiency Determination dated November 5, 2001, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1995	\$ 28	\$10	\$ 15	\$ 53
1997	293	73	102	<u>468</u>
			TOTAL DUE	<u>\$521</u>

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of taxpayer's right to appeal this decision is included with this decision.

DATED this ____ day of _____, 2002.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2002, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

ADMINISTRATIVE ASSISTANT 1